

**MINUTES  
for the  
FIFTH MEETING  
of the  
REVENUE STABILIZATION AND TAX POLICY COMMITTEE**

**October 23-24, 2014  
State Capitol, Room 307  
Santa Fe**

The fifth meeting in 2014 of the Revenue Stabilization and Tax Policy Committee (RSTP) was called to order by Representative Edward C. Sandoval, chair, on Thursday, October 23, 2014, at 10:02 a.m. in Room 307 of the State Capitol in Santa Fe.

**Present**

Rep. Edward C. Sandoval, Chair  
Sen. Carlos R. Cisneros, Vice Chair  
Sen. Sue Wilson Beffort (10/23)  
Rep. Anna M. Crook  
Rep. Brian F. Egolf, Jr. (10/23)  
Sen. Clemente Sanchez  
Sen. William E. Sharer  
Sen. John Arthur Smith  
Rep. James R.J. Strickler  
Rep. Thomas C. Taylor  
Rep. Jim R. Trujillo  
Sen. Peter Wirth  
Rep. Bob Wooley

**Designees**

Rep. Jason C. Harper (10/23)  
Sen. Nancy Rodriguez  
Rep. Carl Trujillo

**Absent**

Sen. Timothy M. Keller  
Rep. Rodolpho "Rudy" S. Martinez  
Sen. Mark Moores  
Rep. Henry Kiki Saavedra  
Sen. Lisa A. Torracco

Rep. Donald E. Bratton  
Sen. William F. Burt  
Sen. Jacob R. Candelaria  
Rep. Ernest H. Chavez  
Rep. Miguel P. Garcia  
Sen. Phil A. Griego  
Rep. Sandra D. Jeff  
Sen. Gay G. Kernan  
Rep. Tim D. Lewis  
Rep. Bill McCamley  
Sen. George K. Munoz  
Rep. Paul A. Pacheco  
Rep. Dennis J. Roch  
Rep. Debbie A. Rodella  
Sen. John M. Sapien

Rep. Luciano "Lucky" Varela  
Sen. Pat Woods

**Guest Legislator**

Rep. Patricia A. Lundstrom (10/23)

(Attendance dates are noted for legislators who did not attend the entire meeting.)

**Staff**

Pam Stokes, Staff Attorney, Legislative Council Service (LCS)  
Amy Chavez-Romero, Assistant Director for Drafting Services, LCS  
Carolyn Peck, Intern, LCS  
Tessa Ryan, Staff Attorney, LCS

**Guests**

The guest list is in the meeting file.

**Handouts**

Handouts and other written testimony are in the meeting file.

**Thursday, October 23**

**Tax Policy Priorities — New Mexico Voices for Children (VFC)**

James Jimenez, director of policy, research and advocacy integration, VFC, and Bill Jordan, senior policy advisor/governmental relations, VFC, articulated VFC's recommendations for change in tax policy.

Mr. Jimenez asserted that some features of New Mexico's economy are stagnant and out of balance. He emphasized the role of consumer spending in economic growth and posited that putting money into the hands of low-income wage earners can quickly spur that growth. Two programs that, he said, accomplish this objective are the federal Earned Income Tax Credit (EITC) and the state Working Families Tax Credit (WFTC). He remarked that New Mexico's state and local tax systems are regressive in that the lowest 60% of its taxpayers pay in taxes more than double, as a percentage of their income, that of the top 1% of taxpayers.

Mr. Jordan continued the presentation by stressing that there is great income inequality in the state and by discussing measures that VFC supports for closing the income gap and improving the economy. He urged that the state adopt an economic development-based tax policy that strengthens families, many of whose well-being has been hit hard by the recession. He said that increasing the WFTC from 10% of the EITC to 15% would help to achieve the ends sought. To pay for that measure, estimated to cost approximately \$25 million, Mr. Jordan proposed that the state pursue one or more of the following: 1) require all corporate income tax

(CIT) payers to calculate their taxes using the combined reporting method; 2) increase the personal income tax (PIT) rate to 5.9% for higher-income earners; 3) tax internet sales; and 4) repeal the net capital gain deduction. Mr. Jordan submitted that several of the principles of good tax policy, including adequacy, equity and accountability, are insufficiently realized, and that the legislature should adopt a tax expenditure budget. Further, it should be more fiscally responsible by refraining from: cutting taxes if the cuts are unlikely to create jobs; raising the gross receipts tax rate; and reimposing the tax on food and medical services. Rather, he said, the state should invest in economy-improving infrastructure and its residents' ability to contribute to the economy.

The committee received handouts from the presenters, which included a report on the WFTC and, for each member, a customized sheet profiling WFTC-related statistics for that member's district.

On questioning, Mr. Jimenez, Mr. Jordan, Amber Wallin, research and policy analyst, VFC, who was in the audience, and committee members addressed the following topics.

*Disparity between low- and high-income earners.* Ms. Wallin clarified that the graph on page seven of the presentation handout represents data on state and local — not federal — taxes and includes property, gross receipts and income taxes. Some members commented that: 1) the graph portrays skewed information in that it fails to account for federal taxes paid; if it did, it would probably reveal that high-income earners pay in all taxes a greater percentage of their earnings than is currently depicted; 2) the graph fails to account for the public benefits that low-income earners receive, which offset the taxes that they pay; and 3) if the information were presented as amounts of taxes paid, rather than as ratios of tax paid to income earned, then one would see that the top earners pay the bulk of tax revenues — such a presentation would demonstrate that higher-income earners should be valued, not vilified or discouraged from making money. Another member argued that the state should enact measures to promote an increase in the number of wealthy residents, since those taxpayers generate the most tax revenue.

A member posited that, if the tax base were broadened and the gross receipts tax (GRT) rate drastically reduced, low-income earners would pay less in taxes than is shown in the graph. Mr. Jordan responded that such a measure, if pursued, should be coupled with the enactment of a progressive PIT scheme to offset the measure's inherently regressive effect. The member acknowledged that the system would still be regressive but countered that it would be less regressive than it is now. Several members stressed the importance of garnering widespread (i.e., bipartisan, executive, legislative and public) support for minimizing preferential tax treatment, broadening the GRT base and lowering the GRT rate.

A member criticized aspects of the presentation as having been delivered in a way that fosters discord between the rich and the poor. Mr. Jimenez demurred and expressed support for the concept of a proportional tax rate in which all taxes and benefits were factored into the tax rate calculations.

*Measures to improve the welfare of low-income earners.* A member articulated the policymaking challenge in overcoming the situation in which: 1) some persons' income from public benefits and work is considerably higher than that from work alone; and 2) there is no institutional incentive for those persons to earn incomes at a level high enough to no longer qualify for those benefits. Another member lauded the principle behind programs like that which expand supplemental food program participants' purchasing power at farmers' markets.

*The CIT and the PIT.* A member maintained that the criticism mounted against lowering the CIT rate is misplaced, first because the CIT generates such a small proportion of the state's revenues as to be relatively insignificant, and second because, if a stated goal were to generate more tax revenue from businesses, then raising the CIT is not an effective way to accomplish the goal, given that it is advantageous for businesses to organize so that their owners pay PIT, not CIT, on business earnings. A member pointed out that, because of this business organization advantage, raising the PIT rate would increase the burden on small business owners, such as farmers. The member added that the potential effect on competition with neighboring states should be considered if the PIT scheme is to be modified. Another member advised that stakeholders allow time before expecting to see the results of recent tax measures enacted to increase business activity and indicated that there has been private-sector job creation in the member's district since the time that one of those measures, reduction of the CIT rate, took effect.

*Job growth.* A member commented on the state's poor job growth and the need to focus on job creation. Mr. Jimenez responded that no measure will swiftly create jobs, but that broadening the GRT tax base and lowering its rate, directing money to those who will spend it quickly, using existing tools like bonds to invest in infrastructure and investing in the work force will, in time, improve the welfare of many.

*Information requests.* Members requested: 1) tax-specific detail on the percentages of income each stratum depicted on page seven of the handout pays; and 2) information on the effectiveness of the EITC, which is said to be effective because it rewards work and reduces reliance on safety net programs.

### **Disaster Relief Workers Potential Tax Implications**

Jerry Fuentes, president, Arizona-New Mexico Region, AT&T, outlined impediments to disaster recovery and a proposed legislative measure to address the issue. According to the Federal Emergency Management Agency, there have been 191 major weather-related disasters in the U.S. since 2010. After a major disaster in which infrastructure is damaged, companies like AT&T set out to quickly restore their services. But state regulatory requirements can slow the restoration of services in cases where out-of-state workers must be brought in to reinforce the efforts of in-state employees. For instance, many employees are deterred by the requirement to file a state tax return on the income earned in their nonresident state, and those who are willing to come are sometimes delayed by licensing and registration processes.

Mr. Fuentes proposed a remedy in which businesses that provide critical infrastructure

(like communications, water, electricity and sewage systems) and their temporarily in-state employees would be exempted from certain legal requirements when they are restoring that infrastructure after a disaster declared by a high-level public official. Namely, those employees would neither be required to file state income tax returns nor comply with state licensing and registration requirements, and the company would not owe property tax during the recovery period on equipment brought in. Mr. Fuentes closed by naming states that have enacted or are considering enacting similar measures and by underscoring that the proposed measure would benefit infrastructure companies, their employees and the public that relies on critical infrastructure.

On questioning, Mr. Fuentes and committee members addressed the following topics.

*Problem scale.* Mr. Fuentes testified that no recent disaster in New Mexico has required the use of AT&T's out-of-state resources, but that the measure is being pursued as a prospective concern. He also testified that AT&T exhausts its in-state resources for disaster response before it taps out-of-state supports and that it would continue that practice. A member commented that it seems that the opportunity for work, coupled with incentives that a company could offer, would outweigh the burden associated with taxpaying obligations. Mr. Fuentes responded that, in spite of added incentives, employees have refused to go out of state in these situations because they are deterred by income-tax-paying obligations and that those employees have union protections that permit them to decline to do the out-of-state work.

*Fiscal effect.* Mr. Fuentes said that the fiscal effect of the measure is hard to forecast because of variables and uncertainties, such as the timing of a disaster and whether out-of-state resources would be needed. He added that other states that have enacted or are considering enacting the measure have found a neutral or positive net effect.

*Adoption of the measure.* A member characterized the measure as a simple method for improving the fitness of companies to respond to disasters; Mr. Fuentes agreed, adding that AT&T will always respond to disasters as fast as it can, but it might do so more slowly in the absence of this legislation. Mr. Fuentes said that he would pursue in the upcoming session the passage of legislation addressing the issues he encapsulated. Joe Menapace, a lobbyist who was in the audience, added that a sponsor for the legislation is being sought.

### **Proposed Changes to the Angel Investment Tax Credit (AIC)**

Minda McGonagle, state director, National Federation of Independent Business, defined "angel investor" and described both what angel investors do and the changes that a bill, which last year was introduced but did not pass, would have made to the AIC. Angel investors are retired entrepreneurs or executives, and some are former recipients of angel investments. They offer wisdom and support to budding entrepreneurs and help to bridge the gap in funding between the seed and venture capital levels. The bill, which is planned to be introduced in the coming session, would: 1) increase the aggregate cap of the AIC from \$750,000 to \$2 million; 2) per claimant and year, increase from \$100,000 to \$250,000 the maximum amount of, and

increase from two to five the number of investments qualifying for, the credit; 3) increase from three to five the number of carry-forward years; and 4) extend the credit's sunset for eight years, to 2024. Ms. McGonagle promoted the AIC as helping to make capital available to a variety of companies and as instrumental in keeping young New Mexicans in the state.

Tom Clifford, secretary of finance and administration and a member of the panel, pointed out that the credit helps to reduce the risk exposure of investors who scrutinize and cull investments; in this sense, the public can leverage and benefit from private activity. He briefly reviewed portions of last year's AIC bill (distributed to the committee) that is planned for reintroduction and said that, if enacted, it would broaden the base of eligible investors and, to align with the credit's federal corollary, modify the definition of "qualified activity". Secretary Clifford referred briefly to a scholarly article (distributed to the committee) whose authors, after examining the correlation between state AIC programs and the rate of business creation, reported a positive finding.

J.T. Michelson, board chair, New Mexico Angels (NMA), who also sat on the panel, thanked committee members on behalf of NMA members for their part in offering the credit. He depicted the legislation as capable of providing a net gain for the state, in-state companies and investors. That is, it helps the state make strides in economic development, induces investors to prefer investing in New Mexico companies over out-of-state companies and reduces investors' tax obligations.

On questioning, Secretary Clifford and Representative Jane E. Powdrell-Culbert, who participated on the panel, provided some data on angel investment activity in the state. Committee members and the panel, which also included Juan Torres, financial development, Economic Development Department (EDD), addressed the following topics.

*Definition of "qualified research".* Secretary Clifford said that changing the new definition of "qualified research" would make the state scheme more uniform with the federal scheme and reduce confusion.

*AIC and rural New Mexico.* A member expressed concern that programs like the AIC are underutilized in rural areas. Secretary Clifford responded that the AIC's provisions could be adjusted to give greater incentive to investments made in those areas. Mr. Torres commented that the EDD has initiated a rural economic development council to look at such issues and is implementing ways to address rural areas' economic development needs. Ms. McGonagle said that her organization is sensitive to the needs of rural businesses and would like to see statewide success in the angel investment arena.

### **Proposed Changes to the Sustainable Building Tax Credit (SBTC)**

Senator Wirth and Representative Carl Trujillo provided some context for a presentation by Mark Duran, executive director, New Mexico Manufactured Housing Association, John Garcia, executive vice president, Home Builders Association of Central New Mexico, and Steve

Hale, president, Hale and Sun Construction, Inc., and program director, Build Green NM, on the SBTC. Senator Wirth said that the SBTC was enacted in 2007, capped at \$10 million and originally set to expire in 2013. It was extended for three years. Representative Carl Trujillo added that measures like the SBTC promote water conservation and are part of a trend that has observable results.

Mr. Garcia talked about energy-efficient homebuilding and the SBTC. New Mexico ranks high among states in measures of green-built homes. The Energy Conservation and Management Division of the Energy, Minerals and Natural Resources Department administers the program, which he said has been effective at increasing the number of green-built homes. Those homes cost more to build than their non-green counterparts but produce savings over time and are less environmentally detrimental. The demand for the credit exceeds the amount available to be taken, and there is a backlog of applications. Mr. Garcia reviewed amounts of the average credit for various types of projects and homes and noted that, in spite of market conditions being poor, 74% of all new homes built in the Albuquerque metropolitan area in 2013 were green-built.

Referring to a handout on homebuilding energy efficiency, Mr. Hale reviewed some technical aspects of the energy-efficiency home rating system. Mr. Duran reported on the effect that the credit has had on manufactured homebuyers, remarking that many rural residents benefit from it. Senator Wirth reported that various interest groups are developing related legislation that will have broad-based support.

On questioning, a committee member raised the point that the value of programs like this should be weighed against the need for the state revenues that they cause to be foregone and then questioned whether the credit causes the construction of green-built homes. Mr. Garcia responded that, generally, builders would not build green-built homes in the absence of the credit. Mr. Hale added that the credit's exhaustion has caused builders to reduce green homebuilding. In response to a member request, Mr. Garcia indicated that he would provide the committee with data on SBTC-related job creation.

### **Valuation of Property in Taos County**

Cesario Quintana, director, Property Tax Division, Taxation and Revenue Department (TRD); Palemon Martinez, secretary/treasurer, Northern New Mexico Stockmen's Association, and president, Taos Valley Acequia Association; Toby Martinez, a Taos property owner; and Clyde Ward, vice president, New Mexico Association of Counties (NMAC), and San Juan County assessor, formed a panel that reported on issues concerning taxation of property in Taos County.

Mr. Quintana gave background on the situation. In 2011, it was determined that many properties in Taos County needed to be reappraised. The Taos County assessor, the Taos County manager and representatives from the Local Government Division of the Department of Finance and Administration and from the Property Tax Division of the TRD entered an agreement

outlining provisions to conduct the appraisals. In 2012, the assessor's office began that work, which included mailing letters to taxpayers whose property the office believed was inappropriately classified as agricultural and taxed at a lower rate. The letters outlined relevant law and notified recipients of the opportunity to bring their properties into compliance with the law. Consequently, in 2013, many properties were removed from the agricultural special method of valuation. Mr. Quintana cited statistics relevant to the undertaking, reviewed several of the legal provisions that apply to reappraisal, classification and taxation of agricultural property and mentioned the exemptions available to certain taxpayers. He directed the committee's attention to photographs of properties taken during property inspections, many of which supported the conclusion that the agricultural classification was appropriate and many of which supported the opposite conclusion.

Stressing the importance of preserving agricultural heritage and production in the face of long-term drought, Toby Martinez referred to maps showing the recent loss of grazing land across New Mexico and a letter from the Taos Farm Service Agency County Committee that requests the Taos County assessor to exercise lenience in reclassifying properties as non-agricultural. Toby Martinez described the problem of drought forcing people to reduce or discontinue their agricultural operations and the efforts of local leaders and property owners to address the corresponding tax reclassification situation, including its effects on elderly property owners who are unfit to continue their agricultural operations. Mr. Ward echoed those comments and underscored the need for a solution that incorporates fairness and objectivity in property classification.

On questioning, a committee member commented on the desire for a bill that would redress the situation in a balanced way and that will be in the best interest of the state as a whole. Another member commented on factors that beset property taxation: the widespread inadequacy of resources devoted to county assessor offices and the potentially high turnover rate in, resulting from the political nature of, the assessor position.

### **Approval of Minutes**

On a motion made and seconded, the minutes from the September 29-30, 2014 RSTP meeting were unanimously approved.

### **Impact of Hold Harmless Reductions in Gallup**

Dick Minzner, lobbyist for the City of Gallup, and Maryann Ustick, city manager, Gallup, talked about the anticipated effects on Gallup of House Bill (HB) 641, as that bill was enacted in 2013. Mr. Minzner supplied relevant background: after food and medical services were removed from taxation, a hold harmless scheme, in which the state compensated local governments for their losses of that revenue, was implemented. Some provisions of HB 641 altered the hold harmless distribution scheme by phasing out the distributions for certain local governments. HB 641 also contained measures that were intended to improve the economic climate and increase governments' revenues; namely, it decreased the CIT rate and gave local governments the authority to impose a new GRT increment. Those measures, it was thought,

would offset the hold harmless distribution reductions.

Mr. Minzner argued that some changes made by HB 641 will harm Gallup, which is one of the governments whose hold harmless distributions will diminish. Gallup has the highest poverty rate in the state, greater-than-average social needs, a high crime rate and a relatively stagnant economy. Together, these conditions make it difficult for its taxpayers to shoulder an increase in the already-high GRT rate, difficult for the city to cut services in an effort to save money and unlikely that the measures in HB 641 that are intended to stimulate the economy will have that effect in Gallup. Moreover, because Gallup's revenue growth rate is so slow, it is expected that the phaseout will result in negative revenue growth.

Mr. Minzner presented two proposed legislative remedies for the financial harm that it is expected will fall on Gallup as a result of HB 641. First, the legislature, in recognizing the city's and McKinley County's extraordinary hardships, could make an exception from the current hold harmless scheme for governments like them. Second, the legislature could adopt a "deferred phaseout" plan that would address the needs of affected governments that experience slow GRT revenue growth.

Under the deferred phaseout plan, the hold harmless distribution amount would be calculated using the measure of GRT revenue growth, and there would be a buffer to safeguard against a reduced distribution for a local government that experienced slow GRT revenue growth. Mr. Minzner indicated that there are many variables — such as eligibility of governments and the threshold for growth — that the legislature could consider in designing the measure.

In closing, Mr. Minzner acknowledged the widespread distaste for government actions that make special exceptions among cases that are alike but then posited that cases that are different should be treated differently. He referred to tables in the handout that illustrate the differences among hold-harmless-affected governments in their relative reliance on the distributions. Ms. Ustick made the points that the impending hold harmless reductions put Gallup in the difficult position of either raising taxes or cutting services and that the fiscal health of cities like Gallup affects the health of the entire state. A legislator whose district includes Gallup told the committee that, if the city imposed the new increment, the GRT rate there would exceed 9%.

On questioning, Mr. Minzner and committee members addressed the following topics.

*Fiscal effects.* Mr. Minzner indicated that, under existing hold harmless reduction provisions, Gallup will lose about \$200,000 per year in the first stage. If Gallup were, as proposed by the first option, exempted from the existing scheme, that would be the approximate cost of the exemption to the state. But if the second proposal (offering relief to slow-revenue-growth governments) were adopted, then it would cost the state approximately \$1.5 million to \$2 million per year. A member remarked that the state's high costs under the existing scheme cut

into education spending. The member proposed a partial remedy of reimposing the GRT on foods that aggravate health problems.

*Hold harmless phaseout.* A member expressed favor for a proposal that would provide relief to any local government that met certain conditions, rather than creating a locality-specific exception. In response to a request for more proposal detail, Mr. Minzner indicated that, generally, a government's GRT revenue base would be determined in a particular year, and then growth would be measured against that base. The distribution would not be withheld if the government's GRT revenue fell below a threshold percentage for year-over-year growth.

The committee recessed at 4:15 p.m.

### **Friday, October 24**

The committee reconvened at 9:13 a.m. on Friday, October 24, 2014, with Representative Sandoval chairing the meeting.

#### ***City of Eunice v. State of New Mexico Taxation and Revenue Department — Overview and Status Update***

Brad Odell, chief legal counsel, TRD, Ryan Gleason, tax policy and research director, TRD, Bill Fulginiti, executive director, New Mexico Municipal League, and Johnnie "Matt" White, mayor, City of Eunice, composed a panel that reported on issues surrounding the lawsuit between the state and the City of Eunice.

Mr. Odell briefed the committee on the lawsuit. Over the course of several years, a Lea County taxpayer filed GRT returns as though the taxpayer were located in the Lea County city of Eunice. After discovering that its true location was outside of the municipal boundary and that it had therefore overpaid taxes, the taxpayer filed amended returns, and the TRD refunded the amount to be repaid. Then the TRD, which collects and distributes local governments' shares of GRT revenues, determined that — under its interpretation of the law — approximately \$2.3 million had been wrongly distributed to, and was to be repaid through the withholding of future distributions from, Eunice. Aware that the withholding would pose a hardship to the city, the TRD attempted to negotiate a payment arrangement. Rather than agreeing to such an arrangement, the city sued the state. The district court ruled, and the court of appeals affirmed, that the state was barred from going back more than one year in collecting from the city the amount that, based on the taxpayer's mistake, it owed. The state filed with the New Mexico Supreme Court a writ of *certiorari*, which was denied, and then it filed a motion for rehearing. The New Mexico Supreme Court granted the motion, and the case is pending before that court.

Mayor White responded as follows: the TRD seeks from the city, in all, a \$2.3 million repayment through a GRT distribution withholding; the TRD withheld all of the city's GRT distributions in January; the city tried working with the TRD; the amount sought represents a substantial portion of the city's budget; the city would have to lay off about six or seven workers

to cope with the \$2.3 million withholding; and the city formulates its budgets based on the amount of GRT revenue that it has received in the past approximately two years. Mr. Fulginiti referenced a comparable distribution problem with Artesia that occurred in the early 1980s and that served as the impetus for the current distribution scheme. He argued that the scheme was designed to protect small cities by imposing a time limitation on retroactive GRT calculations and corresponding distribution withholdings; specifically, under this scheme, a city absorbs the loss of no more than 23 months' worth of subsequently discovered incorrect distributions, while the state absorbs the remainder. Without such protection, Mr. Fulginiti indicated, situations like that in *Eunice* can have dramatic effects on cities.

On questioning, the panel and committee members addressed the following topics:

*Facts pertinent to Eunice's situation.* Mayor White indicated that the size of the subsequently discovered excess distribution, which Mr. Odell indicated was based largely or in full on one taxpayer's miscalculations, did not seem excessive to city personnel because there were five years of similarly sized distributions, and the anomaly was widely attributed to the oil boom. He indicated that the taxpayer whose mistake triggered the dispute is a business in the nuclear industry that was new to the area. Mr. Gleason indicated that the GRT rate in Eunice is 7.1%, and Michael Gallagher, manager, Lea County, who was in the audience, indicated that the GRT rate in the unincorporated parts of Lea County is 5.5%.

*Availability of tax information; legislative reforms.* A member who is a former mayor commented that the tax system lacks helpful tools for cities, in that the TRD is restricted from providing information important to cities' financial planning. Mr. Odell acknowledged the difficulty that cities sometimes face and indicated that the TRD is planning to pursue legislation that would: 1) make available more tax-related information — beyond the names of taxpayers, which it already provides — to local governments; and 2) lighten the burden on those entities when situations like that in *Eunice* arise.

A member remarked that, although the taxpayer is culpable for the mistake, the mistake's negative repercussion falls on taxpayers at large. Mr. Odell elaborated, saying that, of the \$2.3 million that the TRD is seeking, Eunice would owe approximately \$120,000 under the terms of the court decision, if that decision stands; he affirmed that the difference in amounts would be a cost borne statewide. Another member expressed the impression that Eunice's receipt of such a sizeable mistaken distribution was a perverse result and recommended that the period in which a taxpayer may amend its returns be shortened. Another member submitted that taxpayers who report incorrectly should be more liable for their mistakes than they are under the current scheme.

### **Home Rule Taxing Authority**

Mr. Fulginiti spoke briefly about an initiative that would give home-rule municipalities more latitude to design their tax structures than the law currently allows. A committee member expressed support for greater home-rule municipality autonomy and remarked that, if granted that autonomy, the elected bodies that alter city tax structures would be deterred from abusing their

power because they would remain accountable to voters. Another member commented that New Mexico's home-rule laws are more restrictive than those of other states and that some cities could govern themselves more efficiently if given greater leeway.

### **County Local Option Gross Receipts Taxes, Hospital Funding and Other County Legislative Priorities**

Steve Kopelman, executive director, NMAC, Mr. Ward, Mr. Gallagher, Patrick Varela, treasurer, Santa Fe County, and Gary Perez, chair, NMAC Assessors Affiliate, and chief deputy assessor, Santa Fe County, comprised a panel that addressed tax-related legislative measures identified by the NMAC Board of Directors as priorities for counties. Mr. Kopelman, Mr. Varela, Mr. Perez and Mr. Gallagher reported on these measures, and committee members responded, as follows. Bill drafts associated with the item on tax roll corrections and the item on delinquent property tax payments were distributed to the committee.

#### Safety Net Care Pool (SNCP)

Mr. Kopelman testified that the NMAC advocates for the addition of a sunset clause, which would curtail counties' funding obligations, to existing SNCP provisions. The 2014 SNCP-implementing legislation contained such a clause, which was a compromise reached through difficult negotiations between stakeholders, but it was vetoed. The NMAC-endorsed measure would add one year to the original sunset date to better time it with the expiration of the Medicaid waiver, so that the effects of health care reform and Medicaid expansion could be better known before further changes to SNCP laws are made. Legislation has not yet been developed, but stakeholders are engaged in fruitful negotiations. A member encouraged those stakeholders to reach consensus in time to pass related legislation in the next session. Another member questioned the constitutionality of the veto but submitted that a legislative resolution would be preferred to a court resolution.

#### Tax Roll Corrections

Mr. Perez summarized a measure that would allow a county treasurer to correct certain obvious errors in the tax schedule after the county assessor has delivered the schedule to the treasurer. Mr. Perez asserted that the measure, in addition to improving clarity in the statute on the subject, would save time and money and potentially avert the need to correct such errors in court.

#### Delinquent Property Tax Payments

Mr. Varela described a measure that would assign county treasurers, in lieu of the TRD, responsibility for accepting delinquent property tax payments. He attested that, if implemented, the measure would improve the ability of treasurers' offices to provide information often requested by delinquent taxpayers.

#### Job Creation and Industrial Revenue Bond (IRB) Act Changes

Mr. Gallagher outlined a measure that would expand the types of projects eligible for county-issued IRBs, thereby giving counties more discretion in designing tax-relief packages;

remove the ability of an existing competitor company to protest the issuance of county IRBs; and, at a county's discretion, exempt certain "ingredients" of construction from the GRT. Mr. Gallagher argued that the protest provision detrimentally stalls IRB issuance and is arbitrarily absent from the corresponding municipality IRB law. A member cautioned that such a loosening of conditions should be scrutinized, as a county not as well-off as Lea County, which Mr. Gallagher represents, could be harmed by actions permitted by the proposed amendments.

#### County Option Gross Receipts Taxes

Mr. Kopelman said that the NMAC board has approved in concept an initiative to simplify the county option GRT structure, which he characterized as extremely disjointed. He said that the measure would reduce counties' potential taxing authority by consolidating some of the options and, for some options, loosening restrictions on permitted use. Mr. Kopelman assured the committee that, under the proposed changes, a county commission would still be accountable to voters and bound by the law, and that there would continue to be checks on abuse.

Senator Cisneros encouraged the presenters to bring in December any legislation related to the measures to the committee for its consideration and potential endorsement.

#### **Adjournment**

There being no further business, the RSTP adjourned at 11:15 a.m.